

## ANALYSIS OF AMENDED BILL

Author: Baldwin Analyst: Marion Mann DeJong Bill Number: AB 1841

Related Bills: \_\_\_\_\_ Telephone: (916) 845-6979 Amended Date: 04/28/98

Attorney: Doug Bramhall Sponsor: \_\_\_\_\_

**SUBJECT:** Mortgage Savings Account Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 12, 1998, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would allow individuals who have never purchased a principal residence to claim a 10% credit for deposits to a mortgage savings account (similar to an individual retirement account).

### SUMMARY OF AMENDMENT

The April 28, 1998, amendments modified the credit limitation and maximum deposit amounts, defined principal residence, added a one-year time limit for purchasing a principal residence with withdrawn amounts, clarified what constitutes a "financial hardship," modified the definition of "qualified individual," and made other technical changes.

The Effective Date, Legislative History, Background and current law discussion of Specific Findings in the department's analysis of the bill as introduced February 12, 1998, still apply. The remainder of that analysis is replaced with the following.

### SPECIFIC FINDINGS

**This bill** would allow qualified individuals who have never purchased a principal residence to claim a 10% credit for deposits to a mortgage savings account,

DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

Board Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ X NP  
\_\_\_ NA \_\_\_ NAR  
\_\_\_\_\_ PENDING

Agency Secretary Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ NP  
\_\_\_ NA \_\_\_ NAR  
DEFER TO \_\_\_\_\_

**GOVERNOR'S OFFICE USE**

Position Approved \_\_\_\_\_  
Position Disapproved \_\_\_\_\_  
Position Noted \_\_\_\_\_

Department/Legislative Director Date  
**Johnnie Lou Rosas** **5/18/98**

Agency Secretary Date

By: \_\_\_\_\_ Date: \_\_\_\_\_

similar to an IRA. The credit would be limited to \$200, \$400 for a joint return if both spouses are qualified individuals. No deposit to a mortgage savings account would be allowed for the taxable year in excess of \$2,000 per qualified individual.

A mortgage savings account would be an account established by a qualified individual (or a qualified individual and a spouse, jointly) and designated as a mortgage savings account by the trustee or custodian. The mortgage savings account requirements would be similar to an IRA.

A qualified individual would mean an individual whose monthly gross income for the month prior to the deposit does not exceed the county median monthly income for the individual's county of residence at the time of the deposit. The county median monthly income would be the most recent annual county median income, as established by the California Department of Housing and Community Development (CDHCD), divided by 12.

**This bill** would exempt any interest earned on a mortgage savings account from taxation until it is withdrawn from the account. However, unlike an IRA, no deduction would be allowed for deposits to the account.

**The bill** would provide that except in the case of financial hardship, no withdrawal or distribution from the account may be made for one year from the date of the initial deposit.

Amounts Withdrawn from a mortgage savings account and not previously included in income by a qualifying individual would be included in gross income for the taxable year in which the payment or distribution is received, unless that amount either (1) qualifies as a rollover contribution, as defined, or (2) is used, within one year, exclusively to purchase a principal residence in California, including:

- All escrow costs, real estate fees and commissions; and
- Real estate expenses in connection with the acquisition or construction of the land, house, fixtures, improvements, or landscaping.

Any withdrawal from a mortgage savings account would first be considered to be a withdrawal of any interest earned.

Any portion of a withdrawal from a mortgage savings account not previously included in gross income that is not used to purchase a principal residence within one year would be subject to a 10% penalty. The penalty would not apply if the withdrawal were due to a financial hardship, including the following:

- uncompensated hospital or convalescent care for 12 or more continuous weeks;
- uncompensated physical or mental disability to engage in gainful activity for 12 or more continuous weeks;
- the death of a spouse;
- extended unemployment for 12 or more continuous weeks;
- an uncompensated casualty loss in excess of \$5,000;
- or other personal hardships as determined by the Franchise Tax Board (FTB).

The basis of any residence purchased with funds withdrawn from a mortgage savings account (not previously included in income) would be reduced by the amount of those funds.

**This bill** would require the depository maintaining the mortgage savings account to report regarding contributions, distributions and any other matter FTB requires regarding that account to the FTB and the individual for whom the account is maintained.

**This bill** would not allow excess credits to be carried over to future years.

#### Policy Considerations

This bill would raise the following policy considerations.

- Although this bill would assist first-time homebuyers, without a similar federal plan there may not be sufficient incentive to set up mortgage savings accounts.
- Since federal and state law was recently amended to allow the withdrawal of funds from an IRA without penalty for first-time homebuyers, this bill may cause confusion.
- Since the income test is applied on a monthly basis instead of a yearly basis, high-income individuals who have cyclical income could claim this credit. For example, a consultant that was employed for the first four months of the year and earned \$200,000 could following a month with reduced income, make deposits during the other seven months and claim the credit.
- Unless the individual checks the county median monthly income before each deposit, the individual may not know whether their income level is appropriate to allow the credit.

#### Implementation Considerations

Implementation of the provision of this bill would occur during the department's normal annual system update.

#### Technical Considerations

Amendment 1 would add an omitted word.

### FISCAL IMPACT

#### Departmental Costs

This bill would not significantly impact the department's costs.

#### Tax Revenue Estimate and Discussion

The revenue estimate for the bill as amended April 28, 1998, remains the same as the prior estimate, annual revenue losses of approximately \$1 million per year.

The bill as introduced provided no minimum holding period for claiming the credit on deposits. The previous estimate assumed that some qualified individuals would transfer existing savings into Mortgage Savings Accounts immediately before purchasing a home. As amended, the bill requires a one-year holding period from the date of initial deposit. For this estimate, it is assumed these same individuals would transfer existing savings for the minimum of one-year before purchasing a home.

BOARD POSITION

No position.

At its March 26, 1998, meeting the Franchise Tax Board considered this bill but took no position. Julie Bornstein, on behalf of Controller Kathleen Connell was neutral, Member Dean Andal supported the bill, and Robin J. Dezember, on behalf of Member Craig L. Brown, abstained.

Marion Mann DeJong  
(916) 845-6979  
Doug Bramhall

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1841  
As Amended April 28, 1998

AMENDMENT 1

On page 4, line 4 after "thousand" insert:

dollars